IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

WP(C).No. 24338 of 2006(V)

AGAINST THE ORDER IN EP.1956/2003 IN
OS.1752/1998 of MUNSIFF'S COURT, IRINJALAKUDA

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PETITIONER:

NELSON S/O.POTTECKAL ANTONEY,
IRINJALAKUDA VILLAGE DESOM,
MUKUNDAPURAM TALUK, THRISSUR.

BY ADV. SRI.RAJESH CHAKYAT

RESPONDENT:

CORNATION KURIES PVT.LTD.,
IRINJALAKUDA.

BY ADV. SRI.JIJO PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.24338/06

APPENDIX

PETITIONER'S EXTS:

EXT.P1 - TRUE COPY OF EP.1956/03 DT.11.12.03.

EXT.P2 – TRUE COPY OF PAYMENT RECEIPT IN EP.1956/03 DT.25.10.05.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.24338 OF 2006

.....

DATED THIS THE 21st AUGUST, 2007

J U D G M E N T

Heard both sides.

2. Impugned in this Writ Petition under Article 227 of the Constitution is the order under which the execution court found that the petitioner-judgment-debtor in spite of sufficient means is willfully neglecting to pay the decree-debt and on that basis ordered warrant for his arrest and detention. On considering this Writ Petition for admission, this Court became inclined to grant stay only on condition that the petitioner pays a sum of Rs.20,000/- within one month. Mr.Rajesh Chakyat, counsel for the petitioner submitted that the above condition has been complied with. Mr.Jijo Paul, counsel for the respondent-decree-holder is not in a position to say whether the above submission is correct.

3. Under these circumstances, I dispose of the Writ Petition issuing the following directions:-

The execution court will verify whether the petitioner has paid a sum of Rs.20,000/- in pursuance to this Court's order dated 13.9.2006 on or before 14.10.2006. If on verification it is seen that such payment has been made, the court below will hold up further

proceedings in execution including the arrest and detention of the petitioner, subject to the condition that every month commencing from 1st of October, 2007 the petitioner shall pay at the rate of Rs.3,500/- towards the decree-debt till such time as the entire decree-debt is paid off. Once the petitioner becomes confident that he has paid the entire decree-debt, he is permitted to make an application for recording full satisfaction. If any such application is received, the court below will hear both sides and take a decision. It is made clear that if on verification it is found that the petitioner has not paid the sum of Rs.20,000/- in pursuance to the order of this Court, he will forfeit the above benefits under which event the impugned order will become operative immediately. It is also made clear that in the event of any default in the matter of making payments, the petitioner will forfeit the benefits of this judgment.

(PIUS C.KURIAKOSE, JUDGE)

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